

103D CONGRESS
1ST SESSION

H. R. 743

To amend the National Park Service Concessions Policy Act to foster competition among concessioners, to improve management of concessions consistent with the preservation of resources and the purposes of the National Park System, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 1993

Mr. SYNAR introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To amend the National Park Service Concessions Policy Act to foster competition among concessioners, to improve management of concessions consistent with the preservation of resources and the purposes of the National Park System, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND DEFINITION.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “National Park Revitalization Act”.

6 (b) DEFINITION.—As used in this Act, the term “Na-
7 tional Park Service Concessions Policy Act” means the

1 Act entitled “An Act relating to the establishment of con-
2 cession policies in the areas administered by National
3 Park Service and for other purposes” (16 U.S.C. 20–20g).

4 **SEC. 2. CONTRACTS.**

5 (a) MAXIMUM PERIOD; REQUIREMENTS.—Section
6 3(a) of the National Park Service Concessions Policy Act
7 (16 U.S.C. 20b(a)) is amended—

8 (1) by inserting “(1)” after “(a)”;

9 (2) in paragraph (1) (as designated by para-
10 graph (1) of this subsection), by inserting after the
11 first sentence the following: “Except as provided in
12 paragraph (3), the period of a contract entered into
13 under this Act may not exceed 10 years.”; and

14 (3) by adding at the end the following new
15 paragraphs:

16 “(2) Contracts entered into under this Act after the
17 date of enactment of this paragraph shall—

18 “(A) be consistent with the laws relating to the
19 National Park System and the unit concerned;

20 “(B) be implemented in accordance with the
21 purposes of the National Park System and the gen-
22 eral management plan for the unit of the National
23 Park System concerned;

1 “(C) to the maximum extent practicable, con-
2 tain similar terms and conditions in order to facili-
3 tate administration;

4 “(D) to the extent applicable, provide for acqui-
5 sition of the possessory interest of a concessioner in
6 a manner consistent with the objective of section
7 6(c); and

8 “(E) shall be transferable or assignable only
9 upon the consent of the Secretary after reconsider-
10 ation and possible redetermination of the contract
11 terms, including the franchise fee.

12 “(3) The period of a contract may be for a period
13 greater than 10 years if the Secretary finds that a longer
14 period is necessary for the acquisition of possessory inter-
15 est under section 6(c); except that in no event may the
16 period be greater than 15 years.

17 “(4) In entering contracts under this Act, consider-
18 ation of revenue to the United States shall be subordinate
19 to the objectives of protecting and preserving areas admin-
20 istered by the National Park Service and of providing ade-
21 quate and appropriate services for visitors at reasonable
22 rates.”.

23 (b) REPEAL OF OBLIGATION OF UNITED STATES TO
24 COMPENSATE FOR LOSS OF INVESTMENT.—Paragraph
25 (1) of section 3(a) of the National Park Service Conces-

1 sions Policy Act (16 U.S.C. 20b(a)) (as amended by sub-
2 section (a)) is further amended by striking the last sen-
3 tence and inserting the following: “Effective with respect
4 to contracts entered into, renewed, transferred, assigned,
5 or renegotiated under this Act after the date of enactment
6 of this sentence, the United States shall not be obligated
7 to compensate the concessioner for such structures, fix-
8 tures, or improvements.”.

9 (c) FRANCHISE FEES.—Section 3(d) of the National
10 Park Service Concessions Policy Act (16 U.S.C. 20b(d))
11 is amended to read as follows:

12 “(d) Franchise fees, however stated, shall be based
13 on annual gross receipts from the concession and shall not
14 be less than 22.5 percent of the annual gross receipts from
15 that concession. Provision shall be made for reconsider-
16 ation and possible readjustment of franchise fees at least
17 every 5 years unless the contract period is for a lesser
18 period of time.”.

19 (d) UTILITY COSTS.—(1) Section 3 of the National
20 Park Service Concessions Policy Act (16 U.S.C. 20b) is
21 amended by adding at the end the following:

22 “(e) The concessioner shall be responsible for all util-
23 ity costs incurred by the concessioner in the operation of
24 the concession under contracts entered into, renewed,

1 transferred, assigned, or renegotiated under this Act after
2 the date of enactment of this subsection.”.

3 (2) Paragraph 4 of the first section of the Act enti-
4 tled “An Act to facilitate the management of the National
5 Park System and miscellaneous areas administered in con-
6 nection with that System, and for other purposes” (16
7 U.S.C. 1b(4)) is amended by striking “concessioners,”.

8 **SEC. 3. REPEAL OF PREFERENTIAL RIGHTS AND**
9 **POSSESSORY INTEREST.**

10 (a) ADDITIONAL CONTRACTS.—Section 4 of the Na-
11 tional Park Service Concessions Policy Act (16 U.S.C.
12 20c) is amended by striking “and may grant to such con-
13 cessioner a preferential right to provide such new or addi-
14 tional accommodations, facilities, or services”.

15 (b) RENEWAL OF CONTRACTS.—(1) The first sen-
16 tence of section 5 of the National Park Service Conces-
17 sions Policy Act is amended by striking “giving preference
18 in the renewal of contracts or permits and in the negotia-
19 tion of new contracts or permits to the”.

20 (2) Section 5 of the National Park Service Conces-
21 sions Policy Act is amended by adding at the end the fol-
22 lowing: “The Secretary may not give a preference in the
23 renewal of contracts or permits under this Act.”.

24 (c) POSSESSORY INTERESTS.—Section 6 of the Na-
25 tional Park Service Concessions Policy Act is amended—

1 (1) by inserting “(a)” after “SEC. 6”;

2 (2) by inserting at the end of subsection (a) (as
3 designated by paragraph (1)) the following: “This
4 subsection shall not apply to contracts entered into,
5 renewed, transferred, assigned, or renegotiated after
6 the date of enactment of this sentence.”; and

7 (3) by adding at the end the following:

8 “(b) Effective with respect to contracts entered into,
9 renewed, transferred, assigned, or renegotiated under this
10 Act after the date of enactment of this subsection, all
11 right, title, and interest to any structure, fixture, or im-
12 provement acquired or constructed on land owned by the
13 United States within an area administered by the National
14 Park Service shall vest in the United States.

15 “(c) The Secretary shall acquire any possessory inter-
16 est established before the date of enactment of this sub-
17 section relating to any contract subject to subsection (a)
18 with funds made available by section 10(2). Possessory in-
19 terests relating to a concession shall be acquired before
20 the end of the first contract period beginning after the
21 date of enactment of this subsection that relates to that
22 concession.

23 “(d) Except as provided in section 11 of the Act enti-
24 tled ‘An Act to establish the National Park Foundation’,
25 approved December 18, 1967, the Secretary may not ap-

1 prove the direct or indirect transfer of the possessory in-
2 terest relating to a contract subject to this Act.”.

3 **SEC. 4. AVAILABILITY OF AUDIT INFORMATION.**

4 The first undesignated paragraph of section 9 of the
5 National Park Service Concessions Policy Act (16 U.S.C.
6 20g) is amended by adding at the end the following: “A
7 record of each audit under this section shall be available
8 to the public in a manner that does not reveal trade se-
9 crets and commercial or financial information that is privi-
10 leged or confidential.”.

11 **SEC. 5. USE OF FRANCHISE FEES.**

12 (a) IN GENERAL.—The National Park Service Con-
13 cessions Policy Act is amended by adding at the end the
14 following new section:

15 **“SEC. 10. USE OF FRANCHISE FEES.**

16 “All receipts from franchise fees, however stated, col-
17 lected pursuant to this Act after September 30, 1991,
18 shall be covered into a special account established in the
19 Treasury of the United States. Amounts covered into the
20 account in a fiscal year shall be available without further
21 appropriation after the end of the fiscal year as follows:

22 “(1) 2.5 percent of such receipts shall be avail-
23 able for the purposes of section 3 of the National
24 Park System Visitor Facilities Fund Act.

1 “(2) 77.5 percent of the receipts shall be allo-
2 cated among the units of the National Park System
3 in the same proportion as franchise fees from a unit
4 bears to the total amount collected from all units
5 under this section and shall be for capital and re-
6 source management, interpretation, and conservation
7 needs and acquisition of possessory interest under
8 section 6.

9 “(3) The remaining 20 percent shall be allo-
10 cated among the units of the National Park System
11 on the basis of capital and resource management, in-
12 terpretation, and conservation need as determined by
13 the Director.”.

14 (b) CONFORMING AMENDMENT.—Section 3 of the
15 National Park System Visitor Facilities Fund Act (16
16 U.S.C. 19bb) is amended by striking “all National Park
17 System concession fees, including franchise fees and build-
18 ing user fees,” and inserting “2.5 percent of all National
19 Park System concession franchise fees and all National
20 Park System concession building user fees”.

21 (c) NATIONAL PARK FOUNDATION.—The Act entitled
22 “An Act to establish the National Park Foundation” (16
23 U.S.C. 19c–19n) is amended by adding at the end the
24 following:

1 “SEC. 11. The Foundation is authorized to acquire
2 the possessory interest relating to a concession if that
3 possessory interest, upon acquisition by the Foundation,
4 is transferred to the United States. For the purpose of
5 this section, the term ‘possessory interest’ has the mean-
6 ing given such term under section 6 of the Act entitled
7 ‘An Act relating to the establishment of concession policies
8 in the areas administered by National Park Service and
9 for other purposes’, approved October 9, 1965.’”.

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